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DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 150304211-5211-01]

RIN 0694–AG55

Addition of Certain Person to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: In this rule, the Bureau of Industry and Security (BIS) amends the Export Administration Regulations (EAR) by adding one person to the Entity List. The person who is added to the Entity List is located in Ecuador and has been determined by the U.S.

Government to be acting contrary to the national security or foreign policy interests of the United States. This person will be listed on the Entity List under the destination of Ecuador.

DATE: *Effective Date:* This rule is effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Fax: (202) 482-3911, E-mail: ERC@bis.doc.gov.

SUPPLEMENTARY INFORMATION:

Background

The Entity List notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very

limited. The license review policy for each entity is identified in the license review policy column on the Entity List and the availability of license exceptions is noted in the Federal Register notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. This rule implements a decision of the Advisory Committee on Export Policy (ACEP), which the ERC has deemed to also be the decision of the ERC in this matter, to approve this change to the Entity List.

ERC Entity List Decision

Addition to the Entity List

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, persons for whom there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. The

person being added to the Entity List has been determined to be involved in activities that are contrary to the national security or foreign policy interests of the United States.

Paragraphs (b)(1) through (b)(5) of § 744.11 include an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

The Departments represented on the ERC, by way of a decision of the ACEP, which the ERC has deemed to also be the decision of the ERC in this matter, determined that the person being added to the Entity List under the destination of Ecuador has been involved in activities contrary to the national security and foreign policy interests of the United States. There is reasonable cause to believe that the Corporacion Nacional de Telecomunicaciones (CNT), the state-owned telecommunications utility in Ecuador, has been involved, is involved, or poses a significant risk of being or becoming involved in, activities that are contrary to the foreign policy interests of the United States as defined in § 744.11(b) of the EAR.

Pursuant to § 744.11(b) of the EAR, the Departments represented on the ERC by way of a decision of the ACEP, which the ERC has deemed to also be the decision of the ERC in this matter, determined that the conduct of this person raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving this person, and the possible imposition of license conditions or license denials on shipments to the person, will enhance BIS's ability to prevent violations of the EAR.

For the one person added to the Entity List, BIS imposes a license requirement for any transaction in which items classified under Export Control Classification Numbers

(ECCNs) 5D002 or 5A002 are to be exported, reexported, or transferred (in-country) to this person or in which such person acts as purchaser, intermediate consignee, ultimate consignee, or end-user. The license review policy will be case-by-case review. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the person being added to the Entity List in this rule for items classified under ECCNs 5D002 or 5A002.

This final rule adds the following person to the Entity List:

Ecuador

(1) Corporacion Nacional de Telecomunicaciones (CNT),

Avenida Gaspar de Villaroel Quito, Ecuador; *and* Avda. Veintimilla, Suite 1149 y Amazonas, Edificio Estudio Z, Quito, Ecuador.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER], pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 7, 2014, 79 FR 46959 (August 11, 2014), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) (PRA), unless that collection of information displays a currently valid Office of

Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by e-mail to Jasmeet_K._Seehra@omb.eop.gov, or by fax to (202) 395-7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the person being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then the entity being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a

proposed rule would give this party notice of the U.S. Government's intention to place them on the Entity List and would create an incentive for this person to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3

CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 7, 2014, 79 FR 46959 (August 11, 2014); Notice of September 17, 2014, 79 FR 56475 (September 19, 2014); Notice of November 7, 2014, 79 FR 67035 (November 12, 2014); Notice of January 21, 2015, 80 FR 3461 (January 22, 2015).

2. Supplement No. 4 to part 744 is amended by adding in alphabetical order the destination of Ecuador under the Country Column, and one Ecuadorian entity to read as follows:

Supplement No. 4 to Part 744 - Entity List

Country	Entity	License requirement	License review policy	Federal Register Citation

ECUADOR	*****			
	Corporacion Nacional de Telecomunicaciones (CNT), Avenida Gaspar de Villaroel Quito, Ecuador; <u>and</u> Avda. Veintimilla, Suite 1149 y Amazonas, Edificio Estudio Z, Quito, Ecuador.	For items classified under Export Control Classification Numbers (ECCNs) 5D002 or 5A002. (See §744.11 of the EAR).	Case-by-case review.	80 FR [INSERT FR PAGE NUMBER AND DATE OF PUBLICATION IN THE FEDERAL REGISTER].

Dated: May 29, 2015

Matthew S. Borman

Deputy Assistant Secretary for Export Administration

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